THE HON'BLE SRI JUSTICE N.V. RAMANA

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W.P. No. 13094 of 2006

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Oral order:

On the allegation that the petitioner having collected Rs.6/- from a passenger, failed to issue ticket, and thereby pocketed the said amount, the respondent, namely the Depot Manager, Eluru, by orders dated 09.06.2006, placed the petitioner under suspension, pending initiation of disciplinary proceedings.

The learned counsel for the petitioner submitted that the respondent while placing the petitioner under suspension, pending initiation of disciplinary proceedings, could not have held that fraudulent and ulterior motive are squarely established, and that too without conducting any enquiry. He submitted that even though the petitioner submitted his explanation denying the charge that he having collected Rs.6/- from a passenger, did not issue ticket and pocketed the said sum, yet the respondent till date has not considered the same and did not revoke his suspension. He submitted that as the finding recorded by the respondent that the fraudulent and ulterior motive are squarely established, is without conducting any enquiry, it would certainly cause prejudice to him in the departmental enquiry that may be initiated by the respondent. He submitted that the action of the respondent in not passing any orders on his explanation and continuing him still under suspension, is illegal and arbitrary, and thus prayed the impugned order of suspension be set aside.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-APSRTC.

Suspension, pending enquiry, is not a punishment. It is made as an interim measure, to facilitate a free and fair enquiry and ensure that the delinquent officer does not influence the witnesses of the management. When the respondent basing on the material before him, intended to place the petitioner under suspension pending enquiry, he could have done so upon recording his *prima facie* satisfaction, but he could not have recorded a finding that the fraudulent and ulterior motive are established, which finding was supposed to be recorded after a full-fledged enquiry upon giving

opportunity to the petitioner to adduce evidence.

In the above view of the matter, the respondent, without having regard to the finding that fraudulent and ulterior motive are established, which finding has the effect of finding the petitioner guilty even before enquiry, shall consider the necessity or otherwise of continuing the petitioner under suspension, in the light of the explanation submitted by him to the charge, and pass appropriate orders thereon, in accordance with law, and in the event, he comes to the conclusion that the petitioner is required to be continued under suspension, he shall take appropriate steps to expedite the enquiry.

The writ petition is accordingly disposed of. No costs.

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N.V. RAMANA, J.

Date: 29th June, 2006.
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